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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 17th August, 1984:—

BILL NO. XIV of 1984

A Bill to provide for adequate representation of Scheduled Castes and Scheduled Tribes in posts and services under the Government of India and other Central Government establishments.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1984.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in that behalf.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointing authority in relation to a service or post in an establishment" means the authority empowered to make appointment to such service or post;

(*b*) "Central Government establishment" means any office of the Central Government, public sector undertaking or statutory

authority constituted under a Central Act for the time being in force, including a Government Company or a Corporation in which not less than 51 per cent of the paid up share capital is held by the Central Government, and includes universities and colleges affiliated to universities, primary and secondary schools and other educational institutions which are owned or aided by the Central Government;

(*c*) "prescribed" means prescribed by rules made under the Act;

(*d*) "recruitment year" means the financial year during which a recruitment is actually made;

(*e*) "reservation" means reservation of vacancies in posts and services for Scheduled Castes and Scheduled Tribes;

(*f*) "Scheduled Castes" mean the Scheduled Castes specified in the Constitution (Scheduled Castes) Order, 1950 made under Article 341 of the Constitution of India, as amended from time to time;

(*g*) "Scheduled Tribes" mean the Scheduled Tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made under Article 342 of the Constitution of India, as amended from time to time;

(*h*) "select list" means the list of candidates arranged in order of precedence according to the rules and orders issued by the Central Government in that behalf and adopted by the competent authority for making appointments in respect of initial recruitment and promotion.

Application of the Act.

3. This Act shall apply to appointments to all the posts and services under the Central Government establishments including those in public sector and; the statutory authorities, including universities and colleges affiliated thereto and other educational institutions owned or aided by Central Government.

Percentage to be reserved.

4. (*1*) Except as otherwise provided in this Act, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled by candidates not belonging to the Scheduled Castes and Scheduled Tribes.

(*2*) The reservation of vacancies in posts and services shall be at such percentage of the total number of vacancies as the Central Government may, from time to time, by order published in the Official Gazette determine:

Provided that in the case of initial recruitment, the percentage so determined shall, in no case be less than the percentage which the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, bears to the total population as recorded in the latest census.

Prescription of rosters for vacancies.

5. (*1*) The Central Government shall prescribe model rosters indicating the number of vacancies to be reserved for the Scheduled Castes and the Scheduled Tribes and the number to be left unreserved.

(*2*) The appointing authorities shall maintain rosters in the prescribed form.

(3) The rosters shall be consulted for ascertaining the number of reserved vacancies.

Exchange of reservation between communities

6. The reserved vacancies shall be exchanged between the Scheduled Castes and the Scheduled Tribes in the event of non availability of candidates, from the respective categories, but the vacancies reserved for a particular category shall continue to be reserved for that category only for two recruitment years, and, if candidates are not available for appointment to a particular reserved vacancy in the third year, the vacancy so filled by exchange shall be treated as reserved for the candidates of that particular category who are actually appointed.

De-reservation of vacancies.

7. If, in any recruitment year, the number of candidates either from the Scheduled Castes or from the Scheduled Tribes is less than the number of vacancies reserved for them even after exchange of reservation between the Scheduled Castes and the Scheduled Tribes, the remaining vacancies may be advertised exclusively for Scheduled Castes and/or Scheduled Tribes to make special recruitment for them. If still the candidates from the Scheduled Castes and the Scheduled Tribes are not available, the reserved posts may be filled by general candidates, after temporarily de-reserving the vacancies in the prescribed manner. The vacancies so de-reserved may, be carried forward to subsequent five years of recruitment as prescribed for particular category of posts.

Special arrangements for imparting technical training.

8. (1) If, no suitable Scheduled Castes and Scheduled Tribes candidates are available for the posts and services reserved for them, even after following the aforesaid procedure, the concerned Government establishment shall communicate the number of such posts to such Ministry, as may be prescribed under the rules, and it shall be duty of that Ministry to select the appropriate candidates of the Scheduled Castes or the Scheduled Tribes, as the case may be, and to train them at their own expense at the appropriate institutions.

(2) On satisfactory completion of such training, such candidates shall be appointed to the aforesaid reserved posts.

(3) The services of the general candidates, if any, who might have been appointed, on ad hoc basis, against the reserved vacancies, shall stand terminated, as and when the Scheduled Castes or the Scheduled Tribes candidates, as the case may be, are appointed to the such posts.

Relaxation of age, fee and payment of travelling allowance.

9. For initial appointment of the candidates from the Scheduled Castes and the Scheduled Tribes—

(a) the upper age limit prescribed for recruitment shall be increased by five years;

(b) the fees prescribed for admission to any competitive examination or interview for recruitment shall be reduced to one-forth;

(c) the candidates belonging to the Scheduled Castes and the Scheduled Tribes shall be paid travelling allowance to attend any competitive examination or interview to be held by the Union Public Service Commission, the Staff Selection Commission or by any other recruitment agency, office or body, at such rate as may be prescribed.

Process of selection and relaxation of qualifications.

10. (*1*) For recruitment through Employment Exchanges in the requisition to be sent to any Exchange, the number of vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall be specified against the total number of vacancies.

(*2*) For recruitment made through the Union Public Service Commission or any other Selection Board, agency or office, on the basis of any competitive examination or interview, the advertisement shall specify the number of vacancies reserved for the Scheduled Castes and the Scheduled Tribes against the total number of vacancies reserved.

(*3*) In case the number of the Scheduled Castes and Scheduled Tribes candidates is either equal to or less than the number of vacancies, the available candidates shall be considered as suitable candidates if they possess the minimum qualification required for those posts or services:

Provided that the qualifying marks in all the recruitment examinations for the Scheduled Castes and the Scheduled Tribes candidates in the aggregate may be relaxed by ten per cent. by the Central Government or the Union Public Service Commission:

Provided further that in case adequate number of the Scheduled Castes or the Scheduled Tribes candidates do not qualify a prescribed test, such of the candidates who have appeared in the test and who fulfil the prescribed educational qualifications, but have failed in the prescribed tests shall be arranged in the order of their merit and recruited on probation against such or remaining vacancies subject to the passing of the prescribed in-service training course and the test within the period of probation.

(*4*) If the required number of Scheduled Castes and Scheduled Tribes candidates are not available for filling the reserved vacancies, a fresh examination shall be held exclusively for the candidates belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, for filling the remaining reserved vacancies.

(*5*) If, after holding the special examination, the required number of candidates belonging to Scheduled Castes or the Scheduled Tribes are still not available or, if the number of such candidates is less than the number of reserved vacancies, the vacancies which remain unfilled shall be temporarily filled by general candidates in accordance with the procedure laid down in section 6 and 7.

Promotion on the basis of seniority.

11. (*1*) Where promotion is to be made on the basis of seniority subject to fitness, the senior-most Scheduled Castes and Scheduled Tribes officials shall be promoted to the next higher post or grade against reserved vacancies provided they possess the minimum qualifications and experience required for such promotion as per relaxed standard.

(*2*) The number of reserved vacancies for promotion shall be determined on the basis of the reserved points shown in the roster maintained under section 5.

Promotion on selection.

12. Where promotion is to be made on the basis of selection, the procedure for filling the reserved vacancies shall be such, as may be prescribed, and the number of reserved vacancies shall be determined on the basis of the reserved points shown in the roster maintained under section 5 The zone of consideration shall be six times the number of vacancies.

Selection from different services.

13. Where selection is to be made from different services, the recruiting or appointing authority shall select Scheduled Castes and Scheduled Tribes candidates to the extent or the reserved quota provided such candidates satisfy the minimum conditions of qualifications and experience laid down in respect of the posts concerned.

Reservation in confirmation.

14. In case of posts filled by direct recruitment reservation shall be made for the Scheduled Castes and the Scheduled Tribes candidates at the time of confirmation in the prescribed ratio.

Annual report of appointments.

15. (*1*) Every appointing authority shall furnish to the Central Government in the prescribed manner, an annual report on the appointments made upto the end of the month of July of the succeeding financial year and shall maintain such other records as may be prescribed.

(2) Any officer authorised by the Central Government in that behalf may inspect any record or documents and require the appointing authority to produce the roster and other records maintained in his office relating to appointments made by him.

(3) It shall be the duty of the appointing authority to produce such records and documents, furnish such information and afford all such assistance and facilities, as may be necessary, for the aforesaid purpose.

Responsibility of Heads of Departments.

16. In each establishment, an officer of senior rank authorised in that behalf shall act as liaison officer in respect of the matters provided in this Act and shall be specially responsible for—

(*a*) ensuring proper implementation of the provisions of this Act and the rules made thereunder;

(*b*) ensuring compliance by the subordinate authorities;

(*c*) ensuring timely submission of reports;

(*d*) conducting annual inspection of roster and other records;

(*e*) ensuring necessary assistance to the Commission for Scheduled Castes and Scheduled Tribes, Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes or any other Agency or statutory body appointed by the Government to investigate into the complaints received from the organisations or individuals belonging to the Scheduled Castes and Scheduled Tribes.

Standing Committee.

17. (*1*) There shall be a Standing Committee consisting of the following members, namely:—

(*a*) Prime Minister—Chairman;

(*b*) Minister of Home Affairs;

(c) Three Members of Parliament belonging to the Scheduled Castes/Tribes to be nominated by the Central Government;

(*d*) Minister-in-charge for the Welfare of Scheduled Castes/Tribs; and

(*e*) Cabinet Secretary—Secretary.

Functions of the Standing Committee.

18. The Standing Committee appointed under Section 17 shall perform the following functions, namely:—

(a) to review the implementation of the provisions of this Act and the rules made thereunder twice in a financial year;

(b) to suggest measures for the removal of difficulties in such implementation or for improvement therein; and

(c) to perform such other functions as the Central Government may, from time to time, assign to the Committee.

Annual report to be laid before Parliament.

19. The Central Government shall prepare an annual report on the working of this Act and lay it before each House of Parliament for a period of not less than fifteen days in the Budget Session of the succeeding financial year

Penalty.

20. If an appointing authority makes an appointment in contravention of the provisions of this Act, he shall be punishable with fine which may extend to rupees five hundred or simple imprisonment for fifteen days or both:

Provided that special provisions shall be prescribed by appropriate authority when the appointing authority is other than Government, Public Corporation, Autonomous body, etc.

Cognizance.

21. No prosecution for an offence under this Act shall be instituted except with the sanction of the Central Government.

Removal of difficulties.

22. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may take such steps or issue such orders, not inconsistent with the provisions of this Act, as it considers necessary for removing such difficulty.

Inspection of records.

23. Notwithstanding anything contained in the Central Services (Conduct) Rules, any member of any Scheduled Castes or Scheduled Tribes who is adversely affected on account of non-compliance with the provisions of this Act or the rules made thereunder by any appointing authority, may bring the fact to the notice of the Central Government or the Commission for Scheduled Castes and Scheduled Tribes, and upon an application made by him the Central Government or the Commission for Scheduled Castes and Scheduled Tribes may call for such records or take such action thereon as it may think fit.

Power to make rules.

24. (1) The Central Government may make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers the Central Government may make rules in respect of all matters expressly provided under this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid

both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Over riding effect of the Act

25. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or rule, order or resolution made by the Central Government.

STATEMENT OF OBJECTS AND REASONS

The provisions of reservation in posts and services having not been codified, there has been an apathy and unwillingness on the part of most of the officers in the matter of implementation thereof. As a result of this in none of the Ministries/Departments, Public Undertakings, etc., the quota of Scheduled Castes and Scheduled Tribes is full even after 37 years of independence and 34 years of adoption of the Constitution.

The penalty clause in the Bill will serve as a deterrent to the wilful defaulters in implementing the provisions contained in Article 335 of the Constitution.

The Bill is intended to ensure implementation of the provisions contained in the Constitution.

SATYA PRAKASH MALVIYA

FINANCIAL MEMORANDUM

Clause 8(1) of the Bill provides for special arrangement for imparting Technical Training. Though the exact number of such training centres cannot be assessed at this stage, yet it is estimated that a recurring expenditure of Rs. 10,00,000 is likely to be involved.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 24 of the Bill empowers the Central Government to make rules to carry out all or any of the purposes of this Act.

These powers are within the ambit of the delegated legislation.

SUDARSHAN AGARWAL,
Secretary-General.

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